

§ 260.3(4)–3

with which to acquire the securities of such issuer and/or affiliate, is to be regarded as engaged in the distribution of the securities of such issuer and/or affiliate within the meaning of section 303(4).

§ 260.3(4)–3 Definitions of “participates” and “participation” as used in section 303(4), in relation to certain transactions.

(a) The terms *participates* and *participation* in section 303(4) shall not include the interest of a person (1) who is neither in privity of contract with the issuer nor affiliated with the issuer, and (2) who has no association with any principal underwriter of the securities being distributed, and (3) whose function in the distribution is confined to an undertaking to purchase all or some specified proportion of the securities remaining unsold after the lapse of some specified period of time, and (4) who purchases such securities for investment and not with a view to distribution.

(b) As used in this section:

(1) The term *association* shall include a relationship between two persons under which one (i) is affiliated with the other, or (ii) has, in common with the other, one or more partners, directors, officers, trustees, branch managers, or other persons occupying a similar status or performing similar functions or (iii) has a participation, direct or indirect, in the profits of the other, or has a financial stake, by debt-or-creditor relationship, stock ownership, contract or otherwise, in the income or business of the other.

(2) The term *principal underwriter* means an underwriter in privity of contract with the issuer of the securities as to which he is underwriter.

RULES UNDER SECTION 304

§ 260.4a–1 Exempted securities under section 304(a)(8).

The provisions of the Trust Indenture Act of 1939 shall not apply to any security that has been or will be issued otherwise than under an indenture. The same issuer may not claim this exemption within a period of twelve consecutive months for more than \$5,000,000 ag-

17 CFR Ch. II (4–1–02 Edition)

gregate principal amount of any securities.

[57 FR 36501, Aug. 13, 1992]

§ 260.4a–2 Exempted securities under section 304(d).

The provisions of the Trust Indenture Act of 1939 shall not apply to any security that has been issued or will be issued in accordance with the provisions of Regulation A (17 CFR 230.251 *et seq.*) under the Securities Act of 1933.

[57 FR 36501, Aug. 13, 1992]

§ 260.4a–3 Exempted securities under section 304(a)(9).

The provisions of the Trust Indenture Act of 1939 shall not apply to any security which has been or is to be issued under an indenture which limits the aggregate principal amount of securities at any time outstanding thereunder to \$10,000,000 or less, but this exemption shall not be applied within a period of thirty-six consecutive months to more than \$10,000,000 aggregate principal amount of securities of the same issuer.

(Secs. 304(a)(8) and 304(a)(9) of the Trust Indenture Act of 1939, (sec. 302, Pub. L. 96–477; secs. 304(a)(8), 304(a)(9), 53 Stat. 1153; 15 U.S.C. 77ddd(a)(8), 77ddd(a)(9)))

[46 FR 63256, Dec. 31, 1981. Redesignated and amended at 57 FR 36501, Aug. 13, 1992]

§ 260.4c–1 Form for applications under section 304(c).

Form T–4 shall be used for applications for exemption filed pursuant to section 304(c) of the act.

[6 FR 981, Feb. 15, 1941]

§ 260.4c–2 General requirements as to form and content of applications.

Sections 260.7a–15 to 260.7a–38 shall be applicable to applications on Form T–4.

[6 FR 981, Feb. 15, 1941]

§ 260.4c–3 Number of copies; filing; signatures; binding.

(a) Three copies of every application and of every amendment thereto shall be filed with the Commission at its principal office.

(b) At least the original of each application or amendment filed with the